IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 12TH NOVEMBER 2007 / 21ST KARTHIKA 1929

CRP.No. 73 of 2007

(ORDER DATED 17/08/06 IN OS.154/2004, I ADDL. MUNSIFF'S COURT, TRIVANDRUM
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REVN. PETITIONER: 2ND DEFENDANT:

S. RAJAPPAN NAIR, S/O.SIVASANKARA PILLAI
AGED 73 YEARS, TC.4/1870, PANDIT COLONY,
THIRUVANANTHAPURAM.

BY ADV. SRI.R.S.KALKURA

RESPONDENTS: PLAINTIFFS/DEFENDANTS 1,3 TO 7:
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1. MATHEW PHILIP, S/O.P.K.PHILIP,
AGED 56, RESIDING AT TC.NO.4/34-1, P.B.NO.829,
KAWDIAR, THIRUVANANTHAPURAM.

2. M/S. KERALA STATE HOUSING BOARD,
HSC UNIT, SANTHI NAGAR, THIRUVANANTHAPURAM,
REP. BY ITS ADMINISTRATIVE OFFICER.

*** 3. MRS. SARADA BHAI, AGED 52 YEARS,**
PLOT NO.543, PANDIT COLONY HOUSING SCHEME,
KAWDIAR P.O., THIRUVANANTHAPURAM. (*DIED)*

4. DR. DIVAKARAN, AGED 54,
PLOT NO.544, PANDIT COLONY HOUSING SCHEME,
KAWDIAR P.O., THIRUVANANTHAPURAM.

5. MR. LISSAMMA LUKOSE, PLOT NO.545,
PANDIT COLONY HOUSING SCHEME, KAWDIAR P.O.,
THIRUVANANTHAPURAM.

6. SREEKUMAR, S/O. SARADA BHAI,
PLOT N.553, PANDIT COLONY HOUSING SCHEME,
KAWDIAR P.O., THIRUVANANTHAPURAM.

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***7. V.S. HARIKRISHNAN, S/O. SARADA BHAI,**
PLOT NO.553, PANDIT COLONY HOUSING SCHEME,
KAWDIAR P.O., THIRUVANANTHAPURAM.

*** 3RD RESPONDENT DIED AND 7TH RESPONDENT IS RECORDED AS HER LEGAL HEIR VIDE ORDER DT. 18/10/2007 (MEMO C.F 4208/07 DATED 13/08/2007)**

BY ADV. SRI.V.AJAKUMAR -- R5
SRI.T.M.CHANDRAN
SRI.V.A.SASIDHARAN
SRI.SREEVALSAM GOPALAKRISHNAN --- R4
SRI.S.NARAYANAN NAIR
POOVAPPALLY M.RAMACHANDRAN NAIR,SC.KSHB
SRI.K.B.PRADEEP --- R1

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 12/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J

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C.R.P. No.73 OF 2007

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Dated this the 12th day of November 2007

ORDER

This revision petition is preferred against the order passed on Issue Nos.2 and 3 by the I Addl.Munsiff's Court, Trivandrum in O.S.No.154 of 2004. The court considered whether the said court has jurisdiction to entertain the suit in view of the decree and judgment in O.S.No.1253 of 1994 of the Sub court, Thiruvananthapuram? and whether the suit is barred by Order 2 Rule 2 C.P.C.?

2. Heard counsel on both sides. It is fairly submitted that the question to be decided is a mixed question of fact and law and therefore evidence also may have relevance in deciding the above mentioned issues. Therefore, it is desirable that the order on the two issues is set aside and be considered along with the suit after permitting all parties to adduce evidence in support of their contentions.

Therefore, the order under challenge is set aside and the finding on issues 2 and 3 is set aside and the court below is directed to consider those issues along with other issues in the suit after permitting the parties to

adduce evidence in support of their contentions.

Revision petition is disposed of as above.

M.N.KRISHNAN, JUDGE

Cdp/-